

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

UNUM LIFE INSURANCE CO.
OF AMERICA

v.

C.A. NO. 11-342 ML

SHARON MOITOSO

MEMORANDUM AND ORDER

This is an action brought pursuant to 29 U.S.C. § 1132(a)(3) by a claims administrator and plan insurer to recover an overpayment of long-term disability benefits made to Defendant Sharon Moitoso (“Defendant” or “Moitoso”). Plaintiff has filed a Motion for Summary Judgment to which Defendant has responded. Essentially, Defendant does not dispute that she received an overpayment. She contests the amount claimed by Plaintiff.

The matter is before the Court on Plaintiff’s Motion for Summary Judgment. Although Defendant has filed an objection contending that “there are genuine issues of material fact that exist which would preclude a finding (sic) of summary judgment”, Defendant’s objection at 1, a close review of Plaintiff’s Local Rule CV 56 (a) Statement of Undisputed Facts and Defendant’s Affidavit (Document #20) reveal that the only fact Defendant disputes is the amount of overpayment claimed by Plaintiff.

Subsequent to the filing of Defendant’s objection and affidavit, Plaintiff sought, and was granted, leave of Court to file a supplemental Memorandum and Affidavit in support of its Motion for Summary Judgment. Those documents (Document #27 and

#28) advise that upon receipt of confirmation from the Social Security Administration that Defendant's Social Security Disability Income benefits terminated effective February 1, 2010, Plaintiff recalculated the amount of long-term disability benefits overpaid to Defendant. Per Defendant's Supplemental Memorandum (Document #27), "[t]here is now no dispute as to the amount and duration of Social Security Disability Income benefits" Defendant received. Plaintiff now claims the sum of \$37,469.42.

There being no genuine dispute that Plaintiff is entitled to recoup the overpayment to Defendant in the amount of \$37,469.42, Plaintiff's Motion for Summary Judgment is GRANTED. Plaintiff may submit any claim for interest, costs, and attorneys fees within 14 days of entry of this Memorandum and Order

SO ORDERED:

/s/ Mary M. Lisi
Mary M. Lisi
Chief United States District Judge
September 20, 2012